

## SENATE BILL NO. 162

INTRODUCED BY DE. BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING THE ABILITY OF THE FISH, WILDLIFE, AND PARKS COMMISSION TO LIMIT HUNTING PERMITS FOR CERTAIN SPECIES; REQUIRING DETERMINATIONS OF LIMITS TO BE CALCULATED SEPARATELY FOR ARCHERY AND GENERAL HUNTING SEASONS; DEFINING "HARVEST SUCCESS RATE"; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 87-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-1-301, MCA, is amended to read:

**"87-1-301. Powers of commission.** (1) The commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 87-1-209(4);

(f) shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; ~~and~~

(h) ~~subject to subsection (1)(i),~~ shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the

1 written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's  
2 property within the particular hunting district where a restriction on elk hunting on public property is proposed.

3 (i) may not limit or reduce the number of hunting permits allocated in a hunting district for a specific deer,  
4 elk, or antelope season from the number of permits issued for that season in 2007 unless THE HERD POPULATION  
5 IN THAT DISTRICT FOR THAT SPECIES FALLS BELOW 50% OF THE OBJECTIVE LEVEL DETERMINED ACCORDING TO  
6 87-1-323(1) OR the harvest success rate in that district has exceeded an average of 30% for the 3 most recent  
7 calendar years REGULAR SEASON. As used in this subsection (1)(i), "harvest success rate" means the number of  
8 legally harvested animals divided by the total number of licenses issued. Harvest success rates must be  
9 calculated separately for the archery season and the general season when determining whether to limit or reduce  
10 the number of permits allocated in either season.

11 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
12 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
13 archery equipment change.

14 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
15 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
16 hunting by Montana's youth and persons with disabilities.

17 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

18 (i) separate deer licenses from nonresident elk combination licenses;

19 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
20 deer tag;

21 (iii) condition the use of the deer licenses; and

22 (iv) limit the number of licenses sold, except as provided in subsection (1)(i).

23 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
24 appropriate to regulate the harvest by nonresident big game combination license holders:

25 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

26 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

27 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321  
28 through 87-1-325.

29 (5) The commission may adopt rules establishing license preference systems to distribute hunting  
30 licenses and permits:

1 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
2 who has been unsuccessful for a shorter period of time; and

3 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying  
4 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
5 the commission.

6 (6) (a) The commission may adopt rules to:

7 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

8 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
9 districts.

10 (b) The commission shall consider, but is not limited to consideration of, the following factors:

11 (i) harvest of lions by resident and nonresident hunters;

12 (ii) history of quota overruns;

13 (iii) composition, including age and sex, of the lion harvest;

14 (iv) historical outfitter use;

15 (v) conflicts among hunter groups;

16 (vi) availability of public and private lands; and

17 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters."  
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19 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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